

REMARKS

Upon entry of the present amendment, claims 2, 4, 6, 8, 10 and 12 will remain pending in the above-identified application and stand ready for further action on the merits.

The amendments made herein to the claims do not incorporate new matter into the application as originally filed, and at the same time serve to more particularly and distinctly set forth the inventive discovery that forms the basis of the present application. In this regard, support for the amendment that has been made herein to claim 2 occurs in the original filed specification at page 8, lines 7-10.

Accordingly, entry of the present amendment is respectfully requested.

Claim Rejections under 35 USC § 112

Claims 1-12 have been rejected under 35 USC § 112, second paragraph. Reconsideration and withdrawal of this rejection is requested based upon the following considerations.

The instant claims have been amended to delete the term "shapeless" therefrom. Moreover, it is submitted that the claims as instantly amended particularly and distinctly set forth the inventive discovery that the Applicants regard as their own. The statute (35 USC § 112, second paragraph) requires no more. As such, withdrawal of the rejection is required at present.

Claim Rejections under 35 USC § 103

Claims 1-12 have been rejected under 35 USC § 103(a) as being unpatentable over Ushioda et al. (US 6,344,528), and Smith (US 6,054,406). Reconsideration and withdrawal of each of these rejections is respectfully requested based upon the following considerations.

Incorporation of Earlier Remarks

The Examiner is respectfully requested to review remarks set forth in the prior response of January 7, 2004, at pages 9-12 thereof, wherein clear distinctions between the present invention and the cited art are set forth. Such remarks are incorporated herein by reference in their entirety.

Distinctions Over the Cited Art

As indicated above, independent claim 2 has been amended herein based upon disclosure occurring at page 8 of the specification, lines 7-10. More particularly, instantly amended claim 2 recites as follows:

A process for producing a solid catalyst component for a transition metal complex or a solid catalyst containing a transition metal complex comprising, in a washing step in the production of a solid catalyst component for a transition metal complex or a solid catalyst containing a transition metal complex, *a step for removing a slurry-form portion at a point in time at which an interface between a layer of precipitated solid component and an upper layer of a layer of slurry-form portion becomes visible. (emphasis added)*

Upon review of the process recited in claim 2 above, the Examiner will see that neither of the previously cited references of Yoshida et al. '528 nor Smith et al. '406 teach, disclose or otherwise provide or make obvious each of the limitations recited therein. The same is also true for each of dependent claims 4, 6, 8, 10 and 12.

The patentable distinctions of the present invention over the cited art are evidenced by the instant amendment to claim 2, which now recites that in a washing step in the production of a solid catalyst component for a transition metal complex or a solid catalyst containing a transition metal complex there is *"a step for removing a slurry-form portion at a point in time at which an interface between a layer of precipitated solid component and an upper layer of a layer of slurry-form portion becomes visible."* Such a process is nowhere taught, or envisioned in the cited art, and is in no way rendered obvious to those of ordinary skill in the art from the disclosures of the cited art references. That is, no motivation is provided by the cited art, whether such references are considered singularly or on combination, to arrive at the instant invention as claimed. Absent such motivation in the cited art, the outstanding rejections under 35 USC § 103(a) over Yoshida et al. '528 and Smith et al. '406 are not sustainable.

CONCLUSION

Based upon the above considerations, and the fact that neither of the cited references teach, disclose or otherwise motivate one of ordinary skill in the art to arrive at the present invention as claimed, it is clear that the outstanding rejections under 35 USC § 103(a) are not sustainable and must be withdrawn.

Accordingly, the Examiner is respectfully requested to issue a Notice of Allowance clearly indicating that each of the pending claims 2, 4, 6, 8, 10 and 12 are allowed and patentable under the provisions of Title 35 of the United States Code.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact John W. Bailey (Reg. No. 32,881) at the telephone number below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

BIRCH, STEWART, KOLASCH & BIRCH, LLP

By 

John W. Bailey, #32,881

JWB:enm
2185-0607P

P.O. Box 747
Falls Church, VA 22040-0747
(703) 205-8000